UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 8537 / February 9, 2005

SECURITIES EXCHANGE ACT OF 1934
Release No. 51166 / February 9, 2005

INVESTMENT ADVISERS ACT OF 1940
Release No. 2353 / February 9, 2005

INVESTMENT COMPANY ACT OF 1940
Release No. 26754 / February 9, 2005

ADMINISTRATIVE PROCEEDING
File No. 3-11816

In the Matter of

PETER MARTIN,

Respondent.

ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS AND A CEASE-AND-DESIST ORDER PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933, SECTION 15(b) OF THE SECURITIES EXCHANGE ACT OF 1934, SECTIONS 203(f) AND 203(k) OF THE INVESTMENT ADVISERS ACT OF 1940 AND SECTIONS 9(b) AND 9(f) OF THE INVESTMENT COMPANY ACT OF 1940

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 ("Securities Act"), Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act"), Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act") and Sections 9(b) and 9(f) of the Investment Company Act of 1940 ("Investment Company Act") against Peter Martin ("Martin" or "Respondent").

II.

In anticipation of the institution of these proceedings, Martin has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Section 8A of the Securities Act of 1933, Section 15(b) of the Securities Exchange Act of 1934, Sections 203(f) and 203(k) of the Investment Advisers Act of 1940, and Sections 9(b) and 9(f) of the Investment Company Act of 1940 ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds[1] that:

Summary

1. This is a proceeding against Peter Martin arising from undisclosed market timing activity in the Columbia mutual fund complex ("the Columbia Funds"). Martin is a former officer of Columbia Funds Distributor, Inc. ("Columbia Distributor"), the principal underwriter and distributor of the Columbia Funds, which were advised by Columbia Management Advisors, Inc. and predecessor entities ("Columbia Advisors"). During at least 1998 through 2003, Columbia Advisors and Columbia Distributor violated antifraud provisions of the federal securities laws by allowing certain preferred customers to engage in market timing, or short-term or excessive trading, without disclosing these trading arrangements to fund shareholders or to fund trustees. In breach of its fiduciary duty, Columbia Advisors knew and approved of all but one of the short-term arrangements, and failed to prevent or allowed the practice of other short-term trading to continue despite knowing such trading could be detrimental to long-term shareholders in the funds.

2. During this period, Martin on behalf of Columbia Distributor negotiated or approved arrangements with at least six companies and individuals, allowing them to engage in frequent short-term trading in at least seven Columbia Funds. In most instances Martin's superior approved the arrangements. The aggregate trading that occurred totaled hundreds of millions of dollars. In some cases, Columbia Distributor through Martin required investors who wished to

[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other persons or entities in this or any other proceeding.

engage in frequent short-term trading in certain funds to place long-term or "sticky" assets in the same or other funds. After entering into these arrangements, the six companies and individuals engaged in frequent short-term or excessive trading in at least sixteen different Columbia Funds. Such short-term and excessive trading benefited Columbia Advisor by increasing its management fees, Columbia Distributor, which was compensated based on sales of mutual fund shares, and Martin, whose compensation was based in part on gross sales, but posed risks for investors in the funds in which short-term trading was allowed. In addition, the trading was inconsistent with disclosures in the Funds' prospectuses.

3. Throughout the relevant period, Columbia Advisors and Columbia Distributor including its officer Martin, never disclosed to the shareholders or to the independent trustees of the Columbia Funds the special arrangements they made with these short-term or excessive traders and the potential harm these arrangements posed to the relevant Columbia Funds. Certain of these arrangements and the trades made pursuant to them were directly contrary to representations made in fund prospectuses that the funds did not permit short-term or excessive trading. In other cases, the short-term trading pursuant to the arrangements was contrary to prospectus representations that the funds in question would allow no more than three or four exchanges or telephone exchanges per fund per year.

4. By placing their own interest in generating compensation from short-term or excessive trading above the interests of long-term shareholders to whom this trading posed a risk of harm, and by failing to disclose these arrangements and trading and the conflicts of interest they created, rendering their prospectus disclosure materially misleading, Columbia Advisors and Columbia Distributor engaged in fraudulent conduct and Columbia Advisors breached its fiduciary duty to act at all times in the best interests of the Columbia Funds' shareholders. Martin through his role in the timing arrangements violated the federal securities laws.

Respondent

5. Peter Martin, of Hingham, Massachusetts, was National Sales Manager of the Independent Advisor Division of Columbia Distributor from February 2002 until March 2004. He reported directly to the President of Columbia Distributor. From early 2000 to February 2002, he was Senior Vice President of the Fee-Based Alliance Group of Liberty Distributor, a predecessor entity to Columbia Distributor. From 1998 until becoming Senior Vice President, he was Vice President of the Fee-Based Alliance Group. Martin was a registered representative of the distributors from June 1998 until March 2004. Martin's compensation depended in significant part on mutual fund sales.

Related Entities

6. Columbia Advisors, an Oregon corporation, is a wholly-owned subsidiary of Columbia Management Group Inc., which during the relevant period was a wholly-owned subsidiary of

Fleet National Bank, which was a subsidiary of FleetBoston Financial Corporation ("Fleet"). Columbia Advisors has been an investment adviser registered with the Commission since 1969. In connection with its purchase of Liberty Financial Group ("Liberty") in November 2001, Fleet acquired various Liberty fund groups and investment advisers. In April 2003, most of these entities were merged with Fleet Investment Advisors Inc. into Columbia Advisors. Columbia Advisors serves as the investment adviser to approximately 140 mutual funds in the Columbia family of funds ("Columbia Funds"). Throughout the relevant time period, shares of Columbia Funds were continuously offered and sold to the public directly and through intermediaries.

7. Columbia Distributor, a Massachusetts corporation, is a wholly-owned subsidiary of Columbia Management Group, Inc. Columbia Distributor has been a broker-dealer registered with the Commission since 1992. It acts as the principal underwriter and distributor for the Columbia Funds and certain other mutual funds. Before Fleet acquired Liberty in November 2001, the entity was known as Liberty Funds Distributor, Inc. ("Liberty Distributor").

Facts

Background: Market Timing and Prospectus Disclosures

8. Market timing includes (a) frequent buying and selling of shares of the same mutual fund or (b) buying or selling mutual fund shares in order to exploit inefficiencies in mutual fund pricing. Market timing, while not illegal per se, can harm other mutual fund shareholders because it can dilute the value of their shares, if the market timer is exploiting pricing inefficiencies, or disrupt the management of the mutual fund's investment portfolio and can cause the targeted mutual fund to incur costs borne by other shareholders to accommodate frequent buying and selling of shares by the market timer.

9. During the relevant period, the Columbia Funds made certain prospectus disclosures relating to market timing. From 1998 through 2000, the prospectuses for some of the Columbia Funds contained disclosures stating that generally shareholders would be limited in the number of exchanges they could make during a given year. In the Fall of 2000, a number of the Columbia Funds then advised by subsidiaries of Liberty began including in their respective prospectuses the following disclosure (the "Prohibition"):

> The Fund does not permit short-term or excessive trading in its shares. Excessive purchases, redemptions or exchanges of Fund shares disrupt portfolio management and increase Fund expenses. In order to promote the best interests of the Fund, the Fund reserves the right to reject any purchase order or exchange request particularly from market timers or investors who, in the advisor's opinion, have a pattern of short-term or excessive trading or whose trading has been or may be disruptive to the Fund. The funds into which you would like to exchange may also reject your request.

By the Spring of 2001, the rest of the Columbia Funds belonging to Liberty began including the Prohibition in their prospectuses. Columbia Advisors retained this disclosure language upon Fleet's acquisition of Liberty, and in early 2002, adopted the same disclosure for most of the funds that had been advised by subsidiaries of Fleet prior to the acquisition.

Respondent Agreed to Allow Short-Term or
Excessive Trading In Columbia Funds

10. During the period from at least 1998 until Summer 2003, Martin negotiated or approved at least six arrangements with investment advisers, hedge funds and individual investors allowing them to engage in frequent trading in particular mutual funds. In most instances, Martin's superior approved the arrangements. These investors made multiple "round trips" per month (each round trip consisting of a purchase and subsequent sale of some or all of the purchase amount, or an exchange into the fund followed by an exchange out of the fund of some or all of the initial exchange amount) and some made hundreds of round trips. A substantial portion of this trading was directly contrary to the prospectus disclosure for the funds in which it occurred.

A. Ilytat Arrangement and Trading

11. From April 2000 through October 2002, Ilytat, L.P., a San Francisco hedge fund, and its affiliates ("Ilytat") made almost 350 round trips in seven international Columbia Funds. A substantial number of these trades were made pursuant to an arrangement with Columbia Distributor negotiated by Martin and his supervisor, which allowed Ilytat to engage in frequent and short-term trading in the Newport Tiger Fund (the "Newport Tiger Fund"), an Asian equity fund.

12. Through 2000 and early 2001, the prospectus for the Newport Tiger Fund noted that "[s]hort-term 'market timers' who engage in frequent purchases and redemptions can disrupt the Fund's investment program and create additional transaction costs that are borne by all shareholders." Starting in May 2001, the prospectus included the Prohibition representation set forth in paragraph 9 above.

13. Notwithstanding the language in the prospectus, Martin negotiated with Ilytat's principals an arrangement under which Ilytat was to place $20 million in the Newport Tiger Fund, with two-thirds of that amount to remain static and one-third to be actively traded. According to internal calculations for the Fund, Ilytat made purchases or exchanges totaling over $133 million in the fund in 2000 and redeemed $104 million; and during the first five months of 2001 Ilytat's purchases or exchanges accounted for $72 million out of the $204 million in total purchases made by all investors in the Newport Tiger Fund, and it made redemptions totaling $60 million.

14. Beginning in October 2000, the portfolio manager for the Newport Tiger Fund, who had

initially agreed to the arrangement with the understanding that Ilytat would trade just once a month, began to express concern about Ilytat's trading in the fund and stated that there would be long-term damage to the fund. Martin and others including his superior received the portfolio manager's e-mails expressing his concern about Ilytat's trading activity and the harm it could cause to the fund and its investors. In November 2000, when fund personnel again complained in an e-mail about Ilytat's frequent trading, Martin responded based on information he received that Ilytat was only trading the fund through two accounts and that any other frequent trading was not being done by Ilytat. This response was inaccurate.

15. In December 2001, the portfolio manager for the Acorn International Fund, in which Ilytat had also been trading, complained in an e-mail that timing was disrupting her fund. When Ilytat's account was blocked from trading in the fund, however, Martin defended Ilytat. In August 2002, personnel at the funds' transfer agent noted continued market timing by Ilytat accounts in the Tiger Fund, making exchanges several times a month in amounts of up to $6 million, representing about 2% of the Fund's total net asset value. However, when stops were placed on the Ilytat accounts preventing them from further trading, Martin objected and the stops were removed. Ilytat continued to trade in the fund for at least two more months and Martin took no steps to stop it. Ilytat's trading was not halted until surveillance personnel again complained.

16. During the 30 months from April 2000 to September 2002 during which it actively traded in the Newport Tiger Fund, Ilytat made approximately 90 round trips in amounts of up to $13 million. This activity included over 30 round trips during the period from May 2001 through September 2002, when the fund's prospectus contained the Prohibition representation. From September 1998 through October 2003 Ilytat also traded extensively in multiple other Columbia funds, including, among others, the Acorn International Fund, in which it made at least 73 round trips.

B. Ritchie Arrangement and Trading

17. From January 2000 through September 2003, Ritchie Capital Management, Inc. ("Ritchie"), a hedge fund manager, traded frequently in two Columbia Funds: the Newport Tiger Fund and the Columbia Growth Stock Fund (formerly the Stein Roe Advisor Growth Stock Fund) ("Growth Stock Fund"), a large cap fund.

18. Ritchie made most of its trades in the Newport Tiger Fund. During the period from January 2000 through April 2001, notwithstanding the language in the fund's prospectus regarding the potential harm caused by short-term market timers, Ritchie made over 150 round trips. In addition, from May 2001 through September 2002, Ritchie made over 100 trades in the Newport Tiger Fund even though the prospectus included the Prohibition representation during this period.

19. In late 2001, Martin met with Ritchie's principals and discussed the possibility of

Ritchie placing "long-term" assets in a fixed income fund "to offset their activity in Tiger." At the time, Ritchie's $52 million position in the Newport Tiger Fund accounted for nearly 10% of the fund's $525 million in assets.

20. In early 2003, Ritchie entered into a "sticky-asset" arrangement, approved by Martin and his superior, under which it agreed to place $20 million in the Growth Stock Fund, trade up to $2 million at a time with no limits on the number of trades per month, and place another $10 million in the Columbia Short Term Bond Fund as a "static" (non-trading) asset. Overall, pursuant to its arrangements with Columbia Distributor and contrary to the Prohibition representation in the fund's prospectus, Ritchie made approximately 18 round trips in the Growth Stock Fund from June 2002 through September 2003.

C. <u>Other Arrangements and Trading</u>

21. During late 2002 and early 2003, entities controlled by Edward Stern ("Stern") negotiated trading arrangements with Columbia Distributor through two intermediaries. In early 2003, Epic Advisors, on behalf of Stern's Canary Investment Management firm, entered into an arrangement with Columbia Distributor, approved by Martin, under which Stern entities agreed to make investments in three funds, totaling $37 million. Despite the fact that Columbia Advisors had included the Prohibition disclosure in the prospectus for each of these three funds, the arrangement permitted Stern entities to make three round trips per month in each fund. Stern was permitted to make one or two round trips in each account in March and early April. Thereafter, no more orders were received and Columbia Advisors placed "stops" on the accounts which prevented further trading in the accounts.

22. In or around April 1999, after meeting with Martin and others including the funds' portfolio manager, Daniel Calugar ("Calugar") reached an arrangement, approved by Martin and his superior, allowing him to place up to $50 million in the Columbia Young Investor Fund ("Young Investor Fund") and the Growth Stock Fund, with permission to make one round trip per month using his entire position. At the time of the arrangement and up to February 2001 when it adopted the Prohibition disclosure, the prospectus disclosure for the Young Investor Fund stated that investors were generally limited to four telephone exchanges or round trips per year. Calugar's proposed investment made up about 5% of each fund. In 2000, Calugar, on average, made more than one round trip every trading day in various of the Columbia Funds. Throughout the year, Calugar made over 200 round trips in the Young Investor Fund, placing trades of up to $2.3 million at a time. During the period from January 2000 through February 2001, Calugar also made nearly 70 round trips in the Growth Stock Fund, placing trades of up to $4 million at a time. Overall, during the period he traded, Calugar made at least 980 transactions in the Growth Stock Fund, with purchases totaling approximately $725,000,000; and at least 750 trades in the Young Investor Fund, with purchases totaling approximately $436,000,000.

23. In late 1998, Martin reviewed and presented to his superior an arrangement with D. R.

Loeser ("Loeser"), a registered investment adviser, allowing Loeser to make five round trips per month of up to $8 million in the Growth Stock Fund. Martin entered the arrangement even though he knew that Loeser might have previously been barred from the fund complex for excessive trading. During the period it traded, Loeser made at least 120 trades in the Growth Stock Fund, and over 100 transactions in the Young Investor Fund, with purchases totaling approximately $391,000,000. During this period, the prospectus disclosure for the Young Investor Fund stated that investors were generally limited to four telephone exchanges or round trips per year.

24. By early 2000, Tandem Financial ("Tandem"), an investment adviser, entered into an arrangement with Columbia Distributor, which was approved by Martin. The arrangement permitted Tandem to make an unlimited number of trades in one or more of the Columbia Funds. Overall, pursuant to this arrangement, during the period from February 2000 through September 2003, Tandem made more than 100 round trips in the Tax Exempt Fund. During 2000, Tandem made approximately eleven round trips in the Tax-Exempt Fund. Starting in April 2001, the prospectus for the Tax Exempt Fund prospectus included the Prohibition disclosure. Despite the disclosure, Tandem made 106 round trips during the period from April 2001 through September 2003, with purchases totaling approximately $31,700,000.

Respondent Knew That Short-Term or Excessive Trading
Harmed or Created a Risk of Harm to the Funds

25. Martin knew that short-term or excessive trading caused potential or actual harm and disruption to the Columbia Funds. He knew or should have known that several of the agreements he approved were inconsistent with the Funds' prospectus disclosures as well as detrimental to the Funds.

Violations

26. As a result of the conduct described in Section III above, Martin willfully violated Section 17(a)(2) and Section 17(a)(3) of the Securities Act, in that he directly and indirectly, in the offer or sale of securities by the use of the means or instruments of transportation or communication in interstate commerce or by the use of the mails obtained money or property by means of untrue statements of material fact or omissions to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or engaged in transactions, practices or courses of business which operated as a fraud or deceit upon purchasers of the securities. He offered and sold shares of the Columbia Funds using prospectuses that contained materially misleading statements. He knew or should have known that the arrangements he approved permitting short-term or excessive trading in certain Funds were not disclosed in the prospectuses for the funds, and, in or after 2001, that the arrangements were directly contrary to the fund prospectus disclosure, which represented that the funds did not permit short-term or excessive trading.

27. As a result of the conduct described in Section III above, Martin willfully aided and abetted and caused Columbia Advisors' violations of Section 206(2) of the Advisers Act in that Columbia Advisors, while acting as an investment adviser, engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon clients or prospective clients. Specifically, Columbia Advisors permitted short-term and excessive trading, contrary to the prospectus disclosure for the funds traded. In addition, Columbia Advisors breached its fiduciary duty to the Funds when it failed to disclose to the fund boards or shareholders the conflicts of interest created when it placed its own interest in accepting market timing money to generate fees above the interests of long-term shareholders, who were harmed by market timing. Martin knew or should have known that his approval of arrangements allowing short-term or excessive trading would aid and abet or contribute to Columbia Advisors' violations by rendering the fund prospectuses issued by Columbia materially misleading and would cause Columbia Advisors to breach its fiduciary duty to act in the interest of fund shareholders.

28. As a result of the conduct described in Section III above, Martin willfully aided and abetted and caused Columbia Advisors' violation of Section 34(b) of the Investment Company Act due to an act or omission that he knew or should have known would contribute to such violation. Columbia Advisors filed registration statements and other documents with the Commission containing untrue statements of a material fact or omitting to state facts necessary in order to prevent statements made, in the light of the circumstances under which they were made, from being materially misleading. From 2001 on, Columbia's prospectuses included the statement that "The Fund does not permit short-term or excessive trading in its shares," when in fact, Columbia Advisors allowed substantial short-term trading in certain funds. Martin knew or should have known that the arrangements he made allowing timing rendered the statements filed with the Commission inaccurate and failed to correct those statements, allowing further misleading filings to be made.

Undertakings

29. Martin undertakes to cooperate fully with the Commission in any and all investigations, litigations or other proceedings relating to or arising from the matters described in the Order. In connection with such cooperation, Martin agrees:

a. To produce promptly, without service of a notice or subpoena, any and all documents and other information requested by the Commission's staff;

b. To be interviewed at such times as the Commission's staff reasonably may direct;

c. To appear and testify truthfully in such investigations, depositions, hearings or trials as the Commission's staff reasonably may direct; and

d. That in connection with any (i) testimony of Respondent to be conducted by interview or at deposition, hearing or trial or (ii) requests for documents or other information, any request, notice or subpoena for such may be addressed to Respondent's counsel, and be served by mail or facsimile; and Respondent agrees that any notice or subpoena for Respondent's appearance and testimony in an action pending in a United States District Court may be served, and may require testimony, beyond the territorial limits imposed by the Federal Rules of Civil Procedure.

30. Respondent shall provide to the Commission, within thirty days after the end of the suspension period described in Section IV(B) below, an affidavit that he has complied fully with the sanctions set forth in that section.

In determining whether to accept the Offer, the Commission has considered these undertakings.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Martin's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act, Section 203(k) of the Advisers Act, and Section 9(f) of the Investment Company Act, Respondent Martin shall cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act, Section 206(2) of the Advisers Act and Section 34(b) of the Investment Company Act.

B. Pursuant to Section 15(b)(6) of the Exchange Act, Section 203(f) of the Advisers Act, and Section 9(b) of the Investment Company Act, Respondent Martin shall be, and hereby is, suspended for a period of twelve months from the date of the Order from association with any broker, dealer, or investment adviser, and is prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter for a period of twelve months, effective on the date of entry of this order.

C. It is further ordered that Respondent Martin shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of $50,000 to the United States Treasury. Such payment

shall be: (1) made by United States postal money order, certified check, bank cashier's check or bank money order; (2) made payable to the Securities and Exchange Commission; (3) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (4) submitted under cover letter that identifies Martin as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to David Bergers, Associate District Administrator, Boston District Office, Securities and Exchange Commission, 73 Tremont Street, Boston, MA 02108.

D. It is further ordered that Respondent Martin shall, within 30 days of entry of the order, pay disgorgement in the amount of $10,000 to the United States Treasury. Such payment shall be: (1) made by United States postal money order, certified check, bank cashier's check or bank money order; (2) made payable to the Securities and Exchange Commission; (3) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (4) submitted under cover letter that identifies Martin as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to David Bergers, Associate District Administrator, Boston District Office, Securities and Exchange Commission, 73 Tremont Street, Boston, MA 02108.

By the Commission.

Jonathan G. Katz
Secretary